

**CHAPTER 446. BUSINESS REGULATION
REVISED STATUTES OF 1846**

CHAPTER 21

Chapter 21. Of Specific State Taxes And Duties.

HAWKERS AND PEDDLERS.

446.16-446.25 Repealed. 1952, Act 124, Eff. Sept. 18, 1952.

Compiler's note: The repealed sections pertained to regulation and licensing of hawkers and peddlers.

OF AUCTIONEERS, AND OF DUTIES UPON SALES AT AUCTION.

446.26 Auctioneers; bond, delivery to county treasurer.

Sec. 26. Any citizen of this state may become an auctioneer within the county in which he resides, on executing and delivering to the treasurer of such county, a bond in the penal sum of 2,500 dollars, with 2 or more sufficient sureties to be approved by such treasurer, conditioned for the payment to such treasurer, of all auction duties upon goods or property which may be sold by him, according to law.

History: R.S. 1846, Ch. 21;—CL 1857, 973;—CL 1871, 1158;—How. 1267;—CL 1897, 5332;—CL 1915, 7021;—CL 1929, 9669;—CL 1948, 446.26.

Former law: For law prior to 1846 covering the subject matter of this and most of the following sections, see Act 78 of 1839 .

446.27 Auctioneers; term.

Sec. 27. Every person who shall have executed and delivered such bond to the county treasurer shall, for the term of 4 years next after the date of such bond, be an auctioneer within such county, and be authorized to carry on and perform the business of an auctioneer, and shall conform to the provisions hereinafter contained.

History: R.S. 1846, Ch. 21;—CL 1857, 974;—CL 1871, 1159;—How. 1268;—CL 1897, 5333;—CL 1915, 7022;—CL 1929, 9670;—CL 1948, 446.27.

446.28 Auctioneers; statement on oath, time, contents.

Sec. 28. If such auctioneer reside in either of the cities of this state, he shall on the first Monday of each month, and if he reside in any other place, then on the first Monday of April and October in each and every year, make out a statement in writing, verified by his oath, and deliver the same to the county treasurer, in which statement he shall designate particularly:

1. The sums for which all the goods, at every auction held by him after delivering such bond, or the date of his last preceding statement, were sold:
2. The days on which sales were so made by him, and the amount of sales on each day:
3. The amount of duties chargeable under the provisions of this chapter.

History: R.S. 1846, Ch. 21;—CL 1857, 975;—CL 1871, 1160;—How. 1269;—CL 1897, 5334;—CL 1915, 7023;—CL 1929, 9671;—CL 1948, 446.28.

446.29 Statement on oath; delivery to county treasurer; payment of duties, record.

Sec. 29. Every such statement, verified, as aforesaid, shall, within 10 days after the date thereof, be delivered by such auctioneer to the treasurer of the county in which he resides, and such auctioneer shall, at the time of delivering such statement, pay over to such county treasurer the duties chargeable by law upon the sales specified in such statement, and take the treasurer's receipt therefor, which receipt shall be countersigned by the clerk of the same county, who shall make an entry of the amount thereof, in a proper book to be kept by him for that purpose.

History: R.S. 1846, Ch. 21;—CL 1857, 976;—CL 1871, 1161;—How. 1270;—CL 1897, 5335;—CL 1915, 7024;—CL 1929, 9672;—CL 1948, 446.29.

446.30 Statement on oath; forwarding to state treasurer; payment over of duties.

Sec. 30. Each county treasurer shall, immediately after receiving the statement, forward it to the state treasurer, and shall pay over all auction duties received by him or her to the state treasurer, in the manner directed by the state treasurer.

History: R.S. 1846, Ch. 21;—CL 1857, 977;—CL 1871, 1162;—How. 1271;—CL 1897, 5336;—CL 1915, 7025;—CL 1929, 9673;—CL 1948, 446.30;—Am. 2002, Act 86, Imd. Eff. Mar. 26, 2002.

446.31 Auction duties; articles subject, amount.

Sec. 31. The following articles, and no others, shall be subject to the payment of the following duties, if sold at auction:

1. All ardent spirits, wines, and intoxicating liquors, whether foreign or domestic, shall be liable to the payment of a duty of 2 1/2 per cent.

2. All goods, wares, and merchandise of every description imported from any place without the United States, shall be liable to the payment of a duty of 1 1/2 per cent at each and every time they are so exposed for sale.

History: R.S. 1846, Ch. 21;—CL 1857, 978;—CL 1871, 1163;—How. 1272;—CL 1897, 5337;—CL 1915, 7026;—CL 1929, 9674;—CL 1948, 446.31.

446.32 Auction duties; articles exempt.

Sec. 32. Goods and chattels, otherwise liable to auction duties, shall be exempt therefrom if sold under the following circumstances:

First, If they shall belong to the United States or this state;

Second, If they shall be sold in pursuance of any judgment, order or decree of any court of law or equity, or under any seizure or distress by any public officer;

Third, If they shall belong to an estate of a deceased person, and be sold by his executors or administrators, or by any other person duly authorized by any judge of probate;

Fourth, If they shall be the effects of a bankrupt or insolvent, and be sold by his assignee, appointed pursuant to law, or by a general assignment for the benefit of the creditors of such bankrupt or insolvent;

Fifth, If they shall be sold at any fair, or other exhibition, the entire proceeds of which are devoted to any association organized for charitable or benevolent purposes, or for the relief of sick and wounded soldiers, or the families of such soldiers.

History: R.S. 1846, Ch. 21;—CL 1857, 979;—Am. 1865, Act 33, Eff. June 22, 1865;—CL 1871, 1164;—How. 1273;—CL 1897, 5338;—CL 1915, 7027;—CL 1929, 9675;—CL 1948, 446.32.

446.33 Auctions; conduct; duties on articles bought by auctioneers.

Sec. 33. All goods, property and effects, liable to the payment of duties, shall, in all cases when sold at auction, be struck off to the highest bidder, and when the auctioneer, or owner, or any person employed by them, or either of them, shall be such bidder, they shall be subject to the same duties as if struck off to any other person; but this section shall not be construed to render valid any sale which would otherwise be deemed fraudulent and void.

History: R.S. 1846, Ch. 21;—CL 1857, 980;—CL 1871, 1165;—How. 1274;—CL 1897, 5339;—CL 1915, 7028;—CL 1929, 9676;—CL 1948, 446.33.

446.34 Auction duties; calculation.

Sec. 34. All duties shall be calculated on the sums for which the goods and property exposed for sale shall be respectively struck off to the purchaser thereof.

History: R.S. 1846, Ch. 21;—CL 1857, 981;—CL 1871, 1166;—How. 1275;—CL 1897, 5340;—CL 1915, 7029;—CL 1929, 9677;—CL 1948, 446.34.

446.35 Auctioneers; practice without delivery of bond, penalty.

Sec. 35. If any person shall act as an auctioneer in the sale of any goods or property liable to the payment of duties under the provisions of this chapter, without first having delivered to the county treasurer the bond herein required, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding 500 dollars.

History: R.S. 1846, Ch. 21;—CL 1857, 982;—CL 1871, 1167;—How. 1276;—CL 1897, 5341;—CL 1915, 7030;—CL 1929, 9678;—CL 1948, 446.35.

PUBLIC AUCTIONS

Act 224 of 1955

AN ACT to regulate sales at public auction; to provide for the issuing of licenses; and to prescribe penalties for violations of the provisions of this act.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

The People of the State of Michigan enact:

446.51 Sale of new merchandise at public auction; license required.

Sec. 1. It shall be unlawful for any person, firm or corporation to sell, dispose of, or offer for sale at public auction at any place outside the limits of any city or village in the state of Michigan, or within the limits of any village in the state of Michigan that has not by ordinance provided for the licensing of sales by auction, any new merchandise, unless such person, firm or corporation, and the owners of such merchandise, if it is not owned by the vendors, shall have first secured a license as herein provided and shall have complied with the regulations hereinafter set forth.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.52 Licenses; application, filing, contents.

Sec. 2. Any person, firm or corporation desiring such license shall, at least 10 days prior to such proposed auction sale, file with the township clerk of the township wherein it is proposed to hold such auction sale, an application in writing duly verified by the person, firm or corporation proposing to sell, dispose of or offer for sale any new merchandise at public auction, which application shall state the following facts:

(1) The name, residence and postoffice address of the person, firm or corporation making the application, and if a firm or corporation, the name and address of the members of the firm or officers of the corporation, as the case may be;

(2) The name, residence and postoffice address of the auctioneer who will conduct such auction sale;

(3) A detailed inventory and description of all such new merchandise to be offered for sale at such auction and a valuation thereof;

(4) A statement as to whether or not the sale at public auction shall be with or without reservation.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.53 Licenses; bond; amount; beneficiaries; conditions; liability; service of process; jurisdiction; joinder of parties.

Sec. 3. At the time of filing said application, and as a part thereof, the applicant shall file and deposit with the township clerk a bond, with sureties to be approved by the township board, in the penal sum of 2 times the value of the merchandise proposed to be offered for sale at such auction as shown by the inventory filed, running to the state of Michigan and for the use and benefit of any purchaser of any merchandise at such auction who might have a cause for action of any nature arising from or out of such auction sale against the auctioneer or applicant; the bond to be further conditioned on the payment by the applicant of all taxes that may be payable by, or due from, the applicant to the state of Michigan, or any department or subdivision thereof, the payment of any fines that may be assessed by any court against the applicant or auctioneer for violation of the provisions of this act, and the satisfaction of all causes of action commenced within 1 year from date of such auction sale and arising therefrom: Provided, however, That the aggregate liability of the surety for all said taxes, fines and causes of action shall in no event exceed the sum of such bond.

In such bond the applicant and the surety shall appoint the township clerk of the township in which such bond is filed, the agent of the applicant and the surety for the service of process. In the event of such service, the agent on whom such service is made shall, within 5 days after the service, mail by ordinary mail a true copy of the process served upon him to each party for whom he is served, addressed to the last known address of such party. Failure to so mail said copy shall not, however, affect the court's jurisdiction.

Such bond shall contain the consent of the applicant and surety that the circuit court of the county or the justice court of the township wherein the application and bond is filed shall have jurisdiction of all actions within the jurisdiction of the respective courts against the applicant or surety, or both, arising out of said sale.

The state of Michigan, or any subdivision thereof, or any person having a cause of action against the applicant arising out of the sale of such new merchandise, may join the applicant and the surety on such bond in the same action, or may in such action sue either such applicant or the surety alone.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.54 Licenses; fees.

Sec. 4. At the time of filing said application and bond the applicant shall pay to the township clerk a license fee in the sum of \$25.00 for each day it is supposed to hold such auction sale as shown by the application for such license.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.55 Licenses; issuance, transferability, validity.

Sec. 5. Upon the filing of such application and after the applicant has fully complied with all the provisions of this act, the township board, by the township clerk, shall issue to the applicant a license authorizing the holding of such auction sale as proposed in said application. Such license shall not be transferable, and shall be valid only in the township where issued, and shall not be valid in any village which has enacted an ordinance providing for the licensing of sales by auction.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.56 Report of sale and inventory of unsold merchandise; filing.

Sec. 6. Within 10 days after the last day of said auction the applicant shall file in duplicate with the township board a listing of all merchandise sold at such auction and the prices received therefor, together with a detailed inventory of all merchandise unsold at the close of such auction sale. The township clerk shall, immediately after receiving such listing of sales, forward a copy thereof to the department of revenue.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.57 Licensing of sales by auction; definitions.

Sec. 7. "New merchandise" as used in this act shall mean all merchandise not previously sold at retail. "Auction sale" as used in this act shall mean the offering for sale or selling of personal property to the highest bidder, or offering for sale or selling of personal property at a high price and then offering the same at successive lower prices until a buyer is secured.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.58 Cappers, boosters, shillers or false bids prohibited.

Sec. 8. At any such sale by auction, no person shall act as "bidder," or what is commonly known as a "capper," "booster" or "shiller," or offer or make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale at any sale by auction.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.59 Nonapplication of act as to certain sales.

Sec. 9. The provisions of this act shall not extend to the sale at public auction of livestock, farm machinery or farm produce, used homestead goods or other items commonly sold at farm or homestead sales, or to auction sales by individuals of new merchandise, which was assessed personal property tax in the state of Michigan or is replacement stock of merchandise inventory which was assessed personal property tax in the county in which the sale is to be had, and to auction sales under a mortgage foreclosure or under the direction of a court or court officers of such sales as may be required by law. The owner of the personal property specified in this section may furnish the person or persons conducting the public auction with a statement that the property set forth in the statement has been assessed as personal property in the state of Michigan or that it has been purchased as replacement for property that has been assessed, and the possession of such a statement shall absolve the person or persons to whom it is given from all liability under the provisions of this act.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

446.60 Violation of act; penalty.

Sec. 10. Any person, firm or corporation found to be in violation of this act shall be guilty of a misdemeanor and may be punished by a fine not to exceed \$100.00, or by imprisonment in the county jail not to exceed 90 days, or by both fine and imprisonment.

History: 1955, Act 224, Imd. Eff. June 18, 1955.

RESTROOM ACCESS FOR PERSONS WITH MEDICAL CONDITIONS

Act 469 of 2008

AN ACT to provide for restroom access for persons with certain medical conditions; to provide immunity from liability for permitting restroom access; and to prescribe penalties.

History: 2008, Act 469, Eff. Mar. 31, 2009.

The People of the State of Michigan enact:

446.71 Definitions.

Sec. 1. As used in this act:

- (a) "Customer" means an individual who is lawfully on the premises of a retail establishment.
- (b) "Doctor" means a licensed doctor of medicine or a licensed doctor of osteopathic medicine and surgery.
- (c) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, pregnancy, or any other medical condition that requires immediate access to a toilet facility.
- (d) "Retail establishment" means a place of business open to the general public for the sale of goods or services.

History: 2008, Act 469, Eff. Mar. 31, 2009.

446.72 Retail establishment; use of toilet facility by customer; conditions.

Sec. 2. A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if all of the following are met:

- (a) The customer requesting use of the employee toilet facility suffers from an eligible medical condition or utilizes an ostomy device.
- (b) Two or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility.
- (c) The customer provides the retail establishment with a copy of a statement on a prescription form that indicates the customer suffers from an eligible medical condition or utilizes an ostomy device, signed by a doctor.
- (d) The retail establishment does not normally make a restroom available to the public.
- (e) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the retail establishment.
- (f) A public restroom is not immediately accessible to the customer.

History: 2008, Act 469, Eff. Mar. 31, 2009.

446.73 Liability.

Sec. 3. A retail establishment or an employee of a retail establishment is not civilly liable for any injury to or death of a customer allowed to use an employee toilet facility that is not a public restroom, or to an individual other than an employee accompanying the customer, unless all of the following are met:

- (a) The retail establishment or the employee of the retail establishment knew or should have known of the condition that caused the injury or death, should have realized that the condition involved an unreasonable risk of harm to a customer or other individual, and should have expected that the customer or other individual would not discover or realize the danger.
- (b) The retail establishment or the employee of the retail establishment failed to exercise reasonable care to make the condition safe or to warn the customer or other individual of the condition and the risk.
- (c) The customer or other individual did not know or have reason to know of the condition and the risk involved.
- (d) The injury or death occurred in an area of the retail establishment that is not accessible to the public.

History: 2008, Act 469, Eff. Mar. 31, 2009.

446.74 Violation; fine.

Sec. 4. A retail establishment or an employee of a retail establishment that violates section 2 is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

History: 2008, Act 469, Eff. Mar. 31, 2009.

446.75 Physical changes to toilet facility not required.

Sec. 5. A retail establishment is not required to make any physical changes to an employee toilet facility under this act.

History: 2008, Act 469, Eff. Mar. 31, 2009.

446.76 Prohibited conduct; violation as misdemeanor.

Sec. 6. A person who does any of the following is guilty of a misdemeanor:

- (a) Falsely makes, publishes, passes, alters, or forges a prescription form described in section 2(c).
- (b) Alters or forges a doctor's signature on a prescription form described in section 2(c).
- (c) Knowingly possesses a false, forged, or altered prescription form described in section 2(c).

History: 2008, Act 469, Eff. Mar. 31, 2009.

HAWKERS, PEDDLERS, AND PAWNBROKERS IN UPPER PENINSULA
Act 204 of 1889

446.101-446.105 Repealed. 2000, Act 107, Imd. Eff. May 19, 2000.

REFUND ANTICIPATION LOAN DISCLOSURE ACT
Act 66 of 2009

AN ACT to require disclosure of certain information in connection with refund anticipation loans; and to prescribe penalties.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

The People of the State of Michigan enact:

446.111 Short title.

Sec. 1. This act shall be known and may be cited as the "refund anticipation loan disclosure act".

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.113 Definitions.

Sec. 3. As used in this act:

(a) "Annual percentage rate" means the rate as computed under the federal truth in lending act, 15 USC 1601 to 1667f.

(b) "Facilitator" means a person that individually or in conjunction or cooperation with another person processes, receives, or accepts for delivery an application for a refund anticipation loan or a check in payment of refund anticipation loan proceeds or in any other manner materially facilitates the making of a refund anticipation loan. The term does not include any of the following:

(i) A financial institution.

(ii) An affiliate that is a servicer for a financial institution.

(iii) A person certified, registered, or licensed to engage in the practice of public accounting under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(c) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union.

(d) "Lender" means a person that makes a refund anticipation loan.

(e) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity.

(f) "Refund anticipation loan" means an extension of credit to a taxpayer that a person arranges to be repaid directly from the proceeds of the taxpayer's federal or state personal income tax refund.

(g) "Refund anticipation loan fee" means the charges, fees, or other consideration charged or imposed by a person acting as a lender or facilitator for the making of a refund anticipation loan. The term does not include any charge, fee, or other consideration usually charged or imposed by a facilitator in the ordinary course of business for tax return preparation, electronic filing of tax returns, or other nonloan services.

(h) "Taxpayer" means an individual who files a federal or Michigan personal income tax return.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.115 Information to be disclosed to taxpayer by facilitator.

Sec. 5. Before a taxpayer completes an application for a refund anticipation loan, the facilitator shall clearly disclose all of the following in writing to the taxpayer on a form separate from the application:

(a) A listing or table of refund anticipation loan fees and the annual percentage rates charged by the facilitator or lender for 3 or more representative refund anticipation loan amounts. For each refund anticipation loan amount, the schedule shall list separately the amount of each fee and the amount of interest charged by the facilitator or lender and the total amount of fees and interest charged.

(b) That the refund anticipation loan is an extension of credit and not the taxpayer's actual personal income tax refund.

(c) That electronic filing of the taxpayer's tax return is available without applying for a refund anticipation loan.

(d) The average time announced by the appropriate taxing authority within which the taxpayer can expect to receive a refund if the taxpayer does not obtain a refund anticipation loan and the taxpayer's return is filed using either of the following methods:

(i) Electronically and the refund is directly deposited in the taxpayer's bank account.

(ii) By mail and the refund is directly deposited in the taxpayer's bank account or mailed to the taxpayer.

(e) That the internal revenue service with respect to a federal personal income tax return, or the department of treasury with respect to a Michigan personal income tax return, does not guarantee either of the following:

(i) That the full amount of the anticipated refund will be paid.

- (ii) A specific date on which the taxpayer will receive the refund.
- (f) That the taxpayer is responsible for repayment of the refund anticipation loan and related fees in the event the tax refund is not paid or is not paid in full.
- (g) The estimated time within which the proceeds of the refund anticipation loan will be paid to the taxpayer if the loan is approved.
- (h) The fees charged by the facilitator or lender if the refund anticipation loan is not approved.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.117 Information to be disclosed before entering agreement.

Sec. 7. Before entering into a refund anticipation loan agreement, the facilitator shall clearly disclose both of the following to the taxpayer:

- (a) The estimated total fees for the refund anticipation loan.
- (b) The estimated annual percentage rate for the refund anticipation loan.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.119 Violation as misdemeanor; penalty.

Sec. 9. A person, including, but not limited to, a facilitator or a member, officer, director, agent, or employee of a facilitator, that violates or participates in a violation of this act is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 93 days, or both.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

446.121 Preemption.

Sec. 11. A political subdivision of this state shall not adopt any rule, regulation, code, or ordinance to restrict or limit any requirements under this act relating to refund anticipation loans. This act supersedes and preempts any rule, regulation, code, or ordinance of any political subdivision of this state relating to refund anticipation loans.

History: 2009, Act 66, Imd. Eff. July 9, 2009.

REFUND ANTICIPATION LOAN ACT
Act 67 of 2009

AN ACT to prescribe certain duties and obligations of the parties to a refund anticipation loan; and to prescribe penalties.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

The People of the State of Michigan enact:

446.131 Short title.

Sec. 1. This act shall be known and may be cited as the "refund anticipation loan act".

History: 2009, Act 67, Imd. Eff. July 9, 2009.

446.133 Definitions of certain terms.

Sec. 3. As used in this act, "facilitator", "lender", "person", and "refund anticipation loan fee" mean those terms as defined in the refund anticipation loan disclosure act.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

446.135 Refund anticipation loan; certain conduct by facilitator prohibited.

Sec. 5. A facilitator that facilitates or offers to facilitate a refund anticipation loan shall not do any of the following:

(a) Require a consumer to enter into a refund anticipation loan arrangement in order to complete a tax return.

(b) Misrepresent a material factor or condition of granting a refund anticipation loan.

(c) Fail to process the application for a refund anticipation loan after an applicant applies for the refund anticipation loan.

(d) Engage in any fraudulent transaction, practice, or course of business with any person in connection with a refund anticipation loan.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

446.137 Rescission.

Sec. 7. A borrower who obtains a refund anticipation loan may rescind the refund anticipation loan, on or before the close of business on the business day following the day the loan is made, by returning the original check issued to the borrower for the loan or paying the amount of the refund anticipation loan by money order or certified check to the lender or the facilitator. A facilitator shall not charge the borrower a fee for rescinding a refund anticipation loan and shall return any fee charged for making a refund anticipation loan if the refund anticipation loan is rescinded under this subsection. However, a facilitator or lender is not required to return to a customer who rescinds a refund anticipation loan under this subsection a fee charged to the customer by the facilitator or lender for establishing and administering a bank account to electronically receive and distribute the customer's tax refunds.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

446.139 Violation as misdemeanor; penalty.

Sec. 9. A person, including, but not limited to, a facilitator or a member, officer, director, agent, or employee of a facilitator, that violates or participates in a violation of this act is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 93 days, or both.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

446.141 Preemption.

Sec. 11. A political subdivision of this state shall not adopt any rule, regulation, code, or ordinance to restrict or limit any requirements under this act relating to refund anticipation loans. This act supersedes and preempts any rule, regulation, code, or ordinance of any political subdivision of this state relating to refund anticipation loans.

History: 2009, Act 67, Imd. Eff. July 9, 2009.

PAWNBROKERS

Act 273 of 1917

AN ACT to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies.

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

The People of the State of Michigan enact:

446.201 Pawnbrokers; license required; exception; internet drop-off store exempt from licensure.

Sec. 1. (1) A person, corporation, or firm shall not conduct business as a pawnbroker in any of the governmental units of this state without having first obtained from the chief executive officer of that governmental unit a license under this act that authorizes that person, corporation, or firm to conduct that business. This subsection does not require an internet drop-off store complying with subsection (3), or a person engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(2) Licensure under either or both of the following acts does not exempt a person from obtaining a license under this act:

(a) The precious metal and gem dealer act, 1981 PA 95, MCL 445.481 to 445.492.

(b) 1917 PA 350, MCL 445.401 to 445.408.

(3) An internet drop-off store in compliance with the following conditions is exempt from licensure as a pawnbroker under this act:

(a) Has a fixed place of business within this state except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) Provide the local police agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local police agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address, if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local police agency but shall at least be in a legible format and in the English language.

(f) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(g) Immediately remove the personal property or other valuable thing from the website if the local police agency determines that the personal property or other valuable thing is stolen.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9684;—CL 1948, 446.201;—Am. 2002, Act 469, Imd. Eff. June 21, 2002;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005;—Am. 2006, Act 292, Imd. Eff. July 20, 2006.

Compiler's note: Act 334 of 1907 was repealed by Act 105 of 1911, but Act 105 of 1911 was held unconstitutional in *People v. Quider*, 183 Mich. 82, 149 N.W. 1 (1914). As to leaving Act 334 of 1907 in force prior to its repeal by Act 273 of 1917, see the following cases: *Spry Lumber Co. v. Trust Co.*, 77 Mich. 199, 43 N.W. 778 (1889); *Detroit v. Western Union Telegraph Co.*, 130 Mich. 474, 90 N.W. 283 (1902); *People v. DeBlaay*, 137 Mich. 402, 100 N.W. 598 (1904).

Former law: See Act 334 of 1907, being CL 1915, §§ 6006 to 6024, which was repealed by Act 273 of 1917.

446.202 Licenses; issuance; contents; term; transferability; fee; bond; limitations.

Sec. 2. (1) The chief executive officer of the governmental unit may grant under his or her hand, and the official seal of his or her office, to any suitable person, corporation, or firm a license authorizing that person, corporation, or firm to conduct the business of a pawnbroker subject to the provisions of this act.

(2) The license shall designate the particular place in the governmental unit where that person, corporation, or firm shall conduct the business. A person, corporation, or firm receiving a license shall not conduct the business in any other place than the place designated in the license.

(3) The term of license is 1 year from date of issuance, unless revoked for cause, and is not transferable.

(4) Before issuance of the license, the applicant shall pay to the treasurer of the governmental unit an annual license fee in the amount determined under subsection (5) and give a bond to the governmental unit in its corporate name, in the penal sum of \$3,000.00, with at least 2 sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of this act. The governmental unit shall approve the bond.

(5) The governmental unit may fix the amount to be paid as the annual license fee at any amount not less than \$50.00 or more than \$500.00.

(6) Notwithstanding any other provision of this section, the authority of a governmental unit to issue a license under this act is limited as follows:

(a) A county may not issue a license for a location within a city or village with a population greater than 3,000.

(b) A county may not issue a license for a location within a city or village with a population of 3,000 or less or within a township or charter township if that city, village, township, or charter township has established the license fee pursuant to subsection (5).

(c) A township or charter township may not issue a license for a location within a village with a population over 3,000 or a village with a population of 3,000 or less that has established a fee under subsection (5).

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9685;—CL 1948, 446.202;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.203 Definitions.

Sec. 3. As used in this act:

(a) "Chief executive officer" means any of the following:

(i) For a city, the mayor.

(ii) For a village, the village president.

(iii) For a township or charter township, the township supervisor.

(iv) For a county, the county executive or, if there is no county executive, the person designated by a resolution of the county board of commissioners.

(b) "Governmental unit" means a city, township, charter township, county, or incorporated village.

(c) "Internet drop-off store" means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(d) "Local police agency" means the police agency of the city, village, or township, or if none, the county sheriff of the county in which the internet drop-off store conducts business.

(e) "Pawnbroker" means a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9686;—CL 1948, 446.203;—Am. 2002, Act 469, Imd. Eff. June 21, 2002;—Am. 2006, Act 292, Imd. Eff. July 20, 2006.

446.204 Licensed pawnbroker; action upon bond.

Sec. 4. If any person shall be aggrieved by the conduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of the said pawnbroker in any court having jurisdiction of the amount of said judgment remaining unsatisfied.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9687;—CL 1948, 446.204.

446.205 Record of property received; contents; inspection; form of permanent record.

Sec. 5. (1) A pawnbroker shall keep a record in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, that includes a description of the article, a sequential transaction number, any amount of money loaned on the article, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the attorney of the governmental unit, local police

agency, the county prosecuting attorney of the county in which the governmental unit is situated, or the department of state police.

(2) Upon the receipt of any article of personal property or other valuable thing by way of pawn, the pawnbroker shall make a permanent record of the transaction on a form provided by the pawnbroker that substantially complies with the form described in subsection (4). Each record of transaction shall be completed in duplicate by the pawnbroker, legibly in the English language, and shall contain all applicable information required to complete the record of transaction form under subsection (4). This subsection does not prohibit the use and transmission of the information required in the record of the transaction by means of computer or other electronic media as permitted by the local police agency within the applicable governmental unit.

(3) The pawnbroker shall retain a record of each transaction and, within 48 hours after the property is received, shall send 1 copy of the record of transaction to the local police agency.

(4) The record of transaction form shall be 8-1/2 inches by 11 inches in size and shall be as follows:

RECORD OF TRANSACTION

FRONT

Article		Serial No.		
Model No. or Case No.		Lens No. or Move. No.		
Trade Name		Color	Size	No. Jewels
Material		Stone Set Design		
Description		No.	Kind of Stone	Size
Inscription or Initials				
Purchase Price	Amt. Loaned			
Dealer				
City		Date	Ticket No.	
Lady's <input type="checkbox"/>	Gent's <input type="checkbox"/>	Wrist <input type="checkbox"/>	Pocket <input type="checkbox"/>	Lapel <input type="checkbox"/>

BACK

Operator's License # or Other I.D. #	
Customer's Name (PRINT)	
Street No. or RFD	
City and State	
Employed By:	Rolled print of right thumb (If impossible then some other fingerprint. Designate which.)
Age Height	
Weight Race W <input type="checkbox"/> B <input type="checkbox"/> O <input type="checkbox"/>	
Time Received: AM PM	
Mail reports within 48 hours to local officers	<input type="checkbox"/> Male <input type="checkbox"/> Female
Signature of person taking print	

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9688;—CL 1948, 446.205;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

Compiler's note: See Act 469 of 2002 for correct formatting of table in subsection (4).

446.206 Statement to police of articles received; contents.

Sec. 6. A pawnbroker shall make daily, except Sunday, a sworn statement of his or her transactions, describing the articles received, and setting forth the name, residence, and description of the person from whom the articles were received, to the chief of police or chief law enforcement officer of the governmental unit.

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 1927, Act 347, Imd. Eff. June 2, 1927;—CL 1929, 9689;—CL 1948, 446.206;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.207 Repealed. 1980, Act 199, Imd. Eff. July 10, 1980.

Compiler's note: The repealed section pertained to the right of a pawnbroker to deal in secondhand property.

446.208 Purchaser's memorandum of pawn; contents.

Sec. 8. A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any article a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in his or her book by section 6. A charge shall not be made or received by the pawnbroker for the entry, memorandum, or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in 12-point type the following: "If interest or charges in excess of 3% per month, plus storage charges provided in this document, are asked or received, this loan is void and of no effect; and the borrower cannot be made to pay back the money loaned, any interest on the loan, or any charges or any part of the charges, and the pawnbroker loses all right to the possession of the goods, article, or thing pawned, and shall surrender the item to the borrower or pawner upon due demand for the item."

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9691;—CL 1948, 446.208;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.209 Interest on loans; rate; storage charge; usage fee; time of payment; computation; fee or excess charge prohibited.

Sec. 9. (1) A licensed pawnbroker may charge upon any loan a rate of interest not to exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge \$1.00 per month or fraction of a month for the storage of unencumbered personal property under any single pledge or pawn.

(2) A pawnbroker may charge \$1.00 per month or fraction of a month for a usage fee for unencumbered personal property pawned or pledged and used by the pawner during the term of the pawn or pledge. A usage fee charged under this subsection is not considered interest.

(3) A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on the loan in excess of the amounts provided for in this act.

(4) Interest on any loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(5) A pawnbroker is not entitled to any examination fee and shall not make any charge in excess of the amounts provided for in this act.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9692;—CL 1948, 446.209;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005.

446.210 Title to item; sale of pawned property; time of possession.

Sec. 10. (1) Title to the item pledged or pawned vests in the pawnbroker upon the expiration of 3 months or of any period beyond 3 months agreed upon by the parties if the borrower has not paid the debt, interest, and charges on the item pledged or pawned.

(2) A pawnbroker shall not sell any pawn or pledge until the item has remained in his or her possession for at least 3 months.

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 1927, Act 347, Imd. Eff. June 2, 1927;—CL 1929, 9693;—CL 1948, 446.210;—Am. 1998, Act 233, Imd. Eff. July 3, 1998.

446.211 Payment or tender of debt before sale; effect as to title and right to property; agreement to permit pawner to maintain possession; usage fee.

Sec. 11. (1) If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.

(2) A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or

pawned unencumbered personal property during the term of the pawn or pledge transaction. The agreement may also include the payment of a usage fee under section 9. A pawnbroker may take possession of the pledged or pawned property pursuant to section 9609 of the uniform commercial code, 1962 PA 174, MCL 440.9609.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9694;—CL 1948, 446.211;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005.

446.212 Repealed. 1998, Act 233, Imd. Eff. July 3, 1998.

Compiler's note: The repealed section pertained to disposition of surplus money resulting from sale.

446.213 Pawned property; destruction or defacing unlawful; visibility of serial number or insignia.

Sec. 13. (1) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received by him or her in pawn, or otherwise or in any manner do, cause, or suffer to be done by others, anything that destroys or tends to destroy the identity of the article or thing, or tends to render the identification of the thing or article more difficult.

(2) A pawnbroker shall not accept by way of pledge, pawn, purchase, or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the number or insignia is plainly visible on the article or thing.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9696;—CL 1948, 446.213;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005.

446.214 Pawned property; acceptance from certain persons prohibited.

Sec. 14. A pawnbroker shall not receive for pawn any article from any person under 18 years of age or a person the pawnbroker suspects as having stolen the article to be pawned.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9697;—CL 1948, 446.214;—Am. 1998, Act 233, Imd. Eff. July 3, 1998.

446.216 Bond of complainant; amount, surety.

Sec. 16. The said bond shall be in double the value of the property claimed, with such surety as such court shall approve, and shall be given to the person from whose possession the property was taken, with condition that the obligor so claiming the same will pay all the costs and damages that may be recovered against him by the obligee in any suit brought within 10 days from the date of such bond.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9699;—CL 1948, 446.216.

Constitutionality: Section held unconstitutional as violative of due process clauses of state and federal constitutions for failure to provide adequate notice and opportunity for hearing. Rassner v Federal Collateral Society, Inc., 299 Mich 206; 300 NW 45 (1941).

446.217 Transaction of business on Sunday unlawful.

Sec. 17. No license granted under the provisions of this act shall authorize any business to be transacted by pawnbrokers on the first day of the week commonly called Sunday.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9700;—CL 1948, 446.217.

446.218 Violation of act; penalty.

Sec. 18. Any person who shall violate any of the provisions of this act, whether as owner, or as clerk, agent, servant or employee, shall be guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction be fined not less than 25 dollars nor more than 100 dollars, or by imprisonment in the county jail not less than 10 days nor more than 3 months, or by both such fine and imprisonment in the discretion of the court.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9701;—CL 1948, 446.218.

446.219 Violation of act; revocation of license; duration.

Sec. 19. Upon a conviction of any person conducting business as a pawnbroker under this act, or on conviction of any clerk, agent, servant, or employee of the person, the chief executive officer of the governmental unit shall revoke the license of the person and no part of the license fee shall be returned to him or her. The governmental unit shall not issue a license as a pawnbroker to that person for the period of 1 year from the date of the revocation.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9702;—CL 1948, 446.219;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

DRUGS AND TOILET PREPARATIONS

Act 85 of 1923

446.301-446.306 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.